



# NRC NEWS

## U.S. NUCLEAR REGULATORY COMMISSION

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### **Opening a New Chapter in the NRC and Agreement State Partnership**

#### **Organization of Agreement States**

**2005 Annual Meeting**

**San Diego, California**

**October 4, 2005**

**Peter B. Lyons**

**Commissioner, USNRC**

Thank you for inviting me to join you in your annual meeting. I appreciated the opportunity to talk with many of you at last Spring's meeting of the Conference of Radiation Control Program Directors. There were more excellent interactions with the Commission when representatives of the OAS and CRCPD visited NRC Headquarters in August. I've also valued interactions with several of you during my visits to facilities located in your state.

Personally, I am looking forward to continuing our dialogue throughout this week about our important partnership in protecting the nation's public health, safety, and the environment. I believe that the visits in August confirmed that the Commissioners and NRC staff are watching the development of this partnership with intense interest to verify that solid progress is being demonstrated.

I believe that we are currently opening a new chapter in the Agreement State program and in the partnership between the NRC and Agreement States. We independently and collectively face a number of opportunities and challenges that are setting the stage for this new chapter, and I look forward to addressing these issues collaboratively.

These challenges and opportunities will test the resolve of this program to continue to demonstrate if the past successes of the Agreement State program can be continued and carried into the future. They will demand our continued cooperation and joint collective efforts to further define and implement a coherent radiation protection program across the entire nation. As a new member of the Commission, I am pleased to have the opportunity to be able to work with each of you and with OAS and CRCPD in further advancing the Agreement State program.

I have chosen my theme today to be “opening a new chapter in the NRC and Agreement State partnership.” I want to use my time to talk about some of what I see as key challenges and opportunities we face. These are not only involved in opening this new chapter, but also in making this chapter another successful bookmark for the program and setting the stage for subsequent successful chapters. Let me begin first with a discussion of recent new legislation, the Energy Policy Act of 2005.

### **Energy Policy Act – Treatment of Accelerator-Produced and Other Radioactive Material as Byproduct Material**

The enactment of the Energy Policy Act of 2005 brings under the Commission’s regulatory authority certain types of radioactive material – more specifically, certain accelerator-produced material, radium-226, and naturally occurring radioactive material – that previously were not included under the Atomic Energy Act’s definition of byproduct material or under the purview of NRC’s regulatory program. In time, this will help provide a more coherent national framework for regulation of most radioactive materials. And because the Energy Policy Act provided the Commission in this Section of the Act with authority to grant limited-time waivers involving most of its requirements, the Commission has been able to maintain the ‘status quo’ with respect to regulatory responsibilities of the States through issuance of a waiver.

However, by February 8, 2007, NRC must issue final regulations addressing the newly covered material. Issuance of the regulations will enable each State to compare their regulatory program against NRC’s requirements. NRC will consult with the States and other stakeholders in developing these regulations, and to the maximum practicable extent, will use existing model State standards in promulgating the regulations.

We are hoping to make this transition as smooth as possible, both for regulators and licensees. In issuing the regulations, the Commission will also prepare and publish a transition plan describing the conditions under which States may continue to exercise authority over the newly covered byproduct material. The transition plan will allow that any Agreement between the Commission and a State covering byproduct material and entered into before the date of publication of the transition plan will be considered to include the newly covered byproduct material. Non-Agreement States that wish to regulate the newly covered material have the option of making an application to the NRC for Agreement State status.

### **Greater Control and Accountability of Sources**

An area that I feel illustrates this new chapter in our partnership is our collective initiative to coordinate increased controls over radioactive materials. The recent hard work between NRC staff and the States in this area demonstrates how a true partnership between the States and NRC can leverage our resources to effectively increase protection and accountability of these materials.

Ensuring adequate control of radioactive material has always been a mission of the NRC and the Agreement States. Prior to 9/11, NRC and the Agreement States focused our efforts on the control of radioactive sources to ensure protection of public health and safety. This included focusing not only on control of radioactive materials to prevent unintentional exposure, but also on preventing malevolent acts.

The events of 9/11 did not change our collective mission or its focus concerning control of sources to ensure protection of public health and safety. A licensee's loss of control of high-risk radioactive sources, whether it is inadvertent or through a deliberate act, has a potential to result in significant adverse health impacts. Addressing these risks through an integrated approach that recognizes the complementary nature of safety and security requirements will meet our collective goal to enhance the control of sources in today's environment. This approach can ensure adequate control of sources to prevent both adverse health impacts and, as an additional complementary benefit, prevent potential malevolent use of radioactive sources.

The Commission heard your concerns about our initial post-9/11 approach to addressing this area. I believe that we responded in an inclusive and thoughtful approach with the States that achieves our common objective to enhance controls over certain radioactive materials and enhance the protection of public health and safety. Many of you are well aware that the Commission undertook this path after extensive debate in which a range of opinions and concerns were expressed. In my opinion, it is fair to say that your response will define for many years the level of mutual trust and partnership between the Agreement States and the Commission.

We've initiated an aggressive implementation plan and expect our State partners, with our Regional Offices, to implement the orders and license conditions in a timely manner to meet the implementation plan. We've coordinated our offices to expeditiously review the license conditions you have or will be submitting for a compatibility review.

With any partnership, there are obligations and responsibilities of both partners to fulfill our collective commitment. Agreement States must fulfill their additional commitments in this area to ensure a coherent national program and establish greater control and accountability of sources nationwide. The Office of State and Tribal Programs will be working with all of you to ensure we keep on track to make this process work.

## **Regulation Adoption**

I wanted to briefly stress the importance of regulation adoption by the Agreement States. I understand that regulation adoption is a task that sometimes is difficult to get to when there are so many inspections and licensing actions to perform. However, regulations are the foundation of any regulatory program. Keeping regulations up-to-date, although a daunting task, is necessary and should be considered a fundamental activity in your program, not an ancillary one.

Programs that do not adopt a number of NRC-compatible regulations in the expected timeframe are being found Not Compatible during IMPEP reviews, regardless of the adequacy of the program. I encourage you to take action to adopt NRC-compatible regulations within the timeframe designated.

I understand that quite a few States have highly complicated and cumbersome regulation adoption programs, but I cannot stress enough the importance of keeping regulations up-to-date. This is the second area that I think the Commission will watch very closely to verify that the States are living up to their end of our mutual partnership.

## **National Radiation Monitoring System for Safety and Security**

Another opportunity for the States to interface on the federal level is with the Department of Homeland Security's Domestic Nuclear Detection Office (DNDO). As you know, DNDO is attempting to establish a national radiation monitoring system for safety and security.

The DNDO's mission is to provide a single accountable organization with dedicated responsibilities to develop the global nuclear detection architecture. DNDO will acquire and support the deployment of the domestic detection system to detect and report attempts to import or transport a nuclear device or fissile or radiological material intended for illicit use. NRC currently has two staff on a detail assignment assisting DNDO in this effort.

It was encouraging to hear that the OAS and CRCPD leadership briefed the DNDO on your capabilities and made them aware of the established resources in the States that may help DNDO in their mission. I was also pleased to learn that DNDO has solicited a State representative to join their effort and I encourage you to do so. This presents another opportunity for the States to partner with the federal government to leverage existing national expertise to protect the nation from malevolent uses of radioactive material. State involvement will provide DNDO with valuable insight on how this national radiation monitoring system may be deployed.

## **Agreement State Personnel Increased Participation in International Activities**

In the international arena, I am encouraged to see our State colleagues sharing their expertise globally. Whether serving in Vienna, Austria at the International Atomic Energy Agency, revising guidance on the categorization of radiation sources, or performing IMPEP-like reviews in Ecuador, the application of State expertise in the international arena reflects well on all of us as a nation.

The Commission encourages State participation in international activities and believes your expertise has added much needed value to the global radiation protection community. A friendly reminder to those that do participate in international activities is that they coordinate through our Office of State and Tribal Programs with our Office of International Programs before traveling overseas. We look forward to working with our State partners in future international activities.

## **National Materials Program**

In January, the Commission approved the recommendation from NRC staff and the OAS and CRCPD Chairs that NRC and Agreement States continue to operate the NMP under the Blended Option. Thus, NRC continues to follow the Blended Option to work cooperatively and collaboratively with Agreement States, OAS and CRCPD. Under this option, I believe the relationship between NRC and Agreement States will continue to evolve as we each gain further experience in our joint collaborative activities to address regulatory needs of both NRC and the Agreement States.

The Commission directed staff to evaluate the effectiveness of implementation of the pilot project products and make appropriate changes or adjustments to the products when necessary. In response, NRC, OAS and CRCPD leadership have initiated discussions on next steps that should be taken to complete and implement pilot project work products. These include further examining Pilot Project 2 products proposing that CRCPD exercise lead responsibility for a national industrial

radiographer safety certification program and completion of I-125 medical guidance by the Pilot Project 4 working group.

I am pleased to learn that Pilot Project 4, which is led by OAS, has completed draft guidance and that the guidance is currently being reviewed by NRC and Agreement State staff. Implementation of the guidance will help further demonstrate the ability of Agreement States to assume responsibility for development of guidance for use by both NRC and Agreement States as well as demonstrate the key process steps that should be followed in the development of such guidance. I hope that we can continue to move forward with these cooperative initiatives and look forward to observing the progress of the National Materials Program.

I am confident that through our collective efforts in the NMP and through a strong federal-state partnership we will continue to experience a record of success as we enter a new chapter in the Agreement State program.

### **Increased Leadership of OAS and CRCPD Boards in Addressing Issues Cooperatively with NRC**

I specifically want to acknowledge the increased participation of the OAS and CRCPD Boards in partnering with NRC to address the aforementioned issues and the many day-to-day issues involved in implementing the Agreement State program. The Commission appreciates the Boards' efforts in marshaling State resources to support working groups and rulemaking activities that impact all of our programs. We recognize that OAS and CRCPD Board members do these activities in addition to their day jobs, and we appreciate having a point of contact to address our collective challenges in a coordinated manner.

### **New STP Senior Management**

Finally, I would like to take this opportunity to acknowledge that this is the last OAS meeting with Paul Lohaus as Director of State and Tribal Programs. I want to thank him for his leadership and vision in acting as the NRC's "Statesman" implementing the Agreement State program. In my brief tenure as a Commissioner, I've come to appreciate his tireless efforts to foster the NRC and Agreement State partnership. I wish him the best of luck in his retirement.

With that said, I welcome Janet Schlueter as the new Director of the Office of State and Tribal Programs. I have every confidence that Janet's skills and experience will build upon the strong foundation that supports the NRC and Agreement State partnership. I look forward to working with her and all of you in continuing to enhance our collective goal to protect public health, safety, and the environment. I thank you for this opportunity to address you today.